



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,048	05/05/2006	Robert E. Imhof	UEL-036-PCT	2221
7590	09/03/2008		EXAMINER	
Ronald B Sherer Bartlett & Sherer 103 South Shaffer Drive New Freedom, PA 17349			FRANK, RODNEY T	
			ART UNIT	PAPER NUMBER
			2856	
			MAIL DATE	DELIVERY MODE
			09/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/535,048	IMHOF, ROBERT E.	
	Examiner	Art Unit	
	RODNEY T. FRANK	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 19, 20, and 23-34 is/are rejected.
- 7) Claim(s) 21,22,35 and 36 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 May 2006 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ . | 6) <input type="checkbox"/> Other: ____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19, 20, and 23-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imhof (U.S. Patent Number 6,439,028). Imhof discloses a method and equipment for measuring vapor flux from a surface e.g. the rate of water loss from human skin which is useful in the evaluation of the efficiency of the skin/water barrier uses a closed cylinder which is placed with the open end against the skin and the closed end is cooled. By measuring the temperature and relative humidity within the cylinder the water vapor flux can be determined (Please see the abstract).

3. With respect to claim 19, Imhof discloses and illustrates in the figure equipment for measuring the water vapour flux from a surface which equipment comprises a cylinder (1) with a first end which is adapted to be placed against the surface (1a) and at least one sensor (4 or 5) which is able to measure the relative humidity (4) or the relative humidity (4) and temperature (5) or quantifies from which the flux of water vapour from the surface inside the cylinder can be calculated. The Imhof reference does not explicitly disclose that the sensor is positioned adjacent the wall of the cylinder. The Imhof reference does disclose that the device operates in a manner in which the sensor has to interact with the open end of the cylinder so that the sensor can

interact with the medium being tested. Since there is nothing in the present disclosure that indicates that there is any advantage gained, or unexpected result achieved from the position of the sensor, then simple changing the position of the sensor would not render the device patentable over the prior art of record, as one of ordinary skill in the art could simply position the sensor close to the cylinder wall.

With respect to claim 20, the figure of Imhof discloses the sensor mounted inside the wall of the cylinder.

With respect to claims 23, 24, and 28, Imhof does not explicitly disclose the number of relative humidity and/or temperature sensors. However, claim 1 discloses that the device has one or more sensors, so therefore it can have any number of sensors desired. Further, claim 2 discloses that said sensors measure relative humidity and temperature. Thus, the claimed configurations and number(s) or types of sensors can be obtained by one of ordinary skill in the art based upon the disclosure of Imhof.

With respect to claim 25, claim 4 discloses that the relative humidity measurement is based on a change in capacitance or electrical conductivity.

With respect to claim 26, claim 1 discloses the open and closed ends of the cylinder.

With respect to claim 27, column 3, lines 49 through 56 disclose a Peltier cooling device.

With respect to claim 29, Imhof discloses a method for measuring the water vapour flux from a surface which comprises enclosing a zone adjacent to the surface within a cylinder by placing the open end of the cylinder against the surface and

Art Unit: 2856

measuring the relative humidity and temperature or quantities from which the flux of water vapour from the surface can be calculated by means of at least one sensor as disclosed in claims 24 through 42. The Imhof reference does not explicitly disclose that the sensor is positioned adjacent the wall of the cylinder. The Imhof reference does disclose that the device operates in a manner in which the sensor has to interact with the open end of the cylinder so that the sensor can interact with the medium being tested. Since there is nothing in the present disclosure that indicates that there is any advantage gained, or unexpected result achieved from the position of the sensor, then simple changing the position of the sensor would not render the device patentable over the prior art of record, as one of ordinary skill in the art could simply position the sensor close to the cylinder wall.

With respect to claim 30, Imhof discloses in column 3, lines 49 through 67 the operation of the device in the reference, said operation being deemed to be a functional equivalent to the presently claimed invention.

With respect to claim 31, column 1, lines 58 through 65 disclose the claimed limitations of the method.

With respect to claim 32, column 1, line 66 through column 2, line 6 disclose the claimed limitations of the method.

With respect to claim 33, the method is disclosed in column 3 beginning in line 49 and concluding with column 4, line 9.

With respect to claim 34, the figure of Imhof discloses the sensor mounted inside the wall of the cylinder.

Drawings

4. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Allowable Subject Matter

5. Claims 21, 22, 35, and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose nor deem obvious the mounting of the sensors inside the actual cylinder wall such that the sensors react with the area to be measured via a hole in the cylinder wall. The prior art further does not disclose the mounting of the sensors on the outside of the cylinder wall. There is no motivation in the prior art to make such modifications to the prior art of record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RODNEY T. FRANK whose telephone number is (571)272-2193. The examiner can normally be reached on M-F 9-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. T. F./
Examiner, Art Unit 2856
September 2, 2008
/Hezron Williams/
Supervisory Patent Examiner, Art Unit 2856